

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SADIE FRAZIER, personally as SPECIAL
ADMINISTRATOR for the Estate of Eddie
Jackson, *et al.*,

Plaintiff,

v.

WILLIAM PRICE, *et al.*,

Defendants.

Case No. 2:06-CV-01196-KJD-PAL

ORDER

Presently before the Court is Plaintiffs' Motion for Summary Judgment (#10). Defendants filed a response in opposition (#11) to which Plaintiffs replied (#14). Plaintiff's complaint was filed August 30, 2006. The present motion for summary judgment was filed October 12, 2006 before a discovery plan or scheduling order had been entered.

In opposition to the motion, Defendants have requested that the Court deny Plaintiffs' motion pursuant to Federal Rule of Civil Procedure 56(f) in order to allow Defendants' to conduct discovery. "Where...a summary judgment motion is filed so early in the litigation, before a party has had any realistic opportunity to pursue discovery relating to its theory of the case, district courts should grant any Rule 56(f) motion fairly freely." Burlington N. Santa Fe Ry. Co. v. Assiniboine and Sioux Tribes, 323 F.3d 767, 773 (9th Cir. 2003). Having read and considered the pleadings, motions, and

1 affidavits of the parties, the Court denies Plaintiffs' motion for summary judgment without prejudice
2 in accordance with Rule 56(f).

3 **IT IS SO ORDERED.**

4 DATED this 4th day of January 2007.

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Kent J. Dawson
United States District Judge
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